

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

SCOTT ELLIOT STERKEL,

Defendant.

Case No. 2:21-CR-0171-TOR

STIPULATED PROTECTIVE
ORDER REGARDING COMPUTER
FORENSIC REVIEW PROCEDURES
FOR CHILD PORNOGRAPHY
CONTRABAND

BEFORE THE COURT is the parties' Stipulated Motion for Protective Order
GOOD CAUSE HAVING BEEN SHOWN, the Court hereby ORDERS that the
Stipulation Regarding Computer Forensic Review Procedures For Child Pornography
Contraband. ECF No. 16. The motion was submitted for hearing without oral argument
and on an expedited basis. Having reviewed the record and the files therein, the Court is
fully informed. Pursuant to the parties' stipulation and for good cause having been shown,
the motion is **GRANTED**.

1. IT IS ORDERED that 18 U.S.C. § 3509(m) applies to this case, and the Court
is required to deny defense requests to copy, photograph, duplicate, or otherwise
reproduce material constituting child pornography if the government makes the material
reasonably available to Defendant and provides an ample opportunity for the defense to
examine it at a government facility. *See* 18 U.S.C. § 3509(m).

2. IT IS FURTHER ORDERED that, in order to comply with 18 U.S.C.

1 § 3509(m), and to allow Defendant the greatest opportunity to prepare an effective defense
2 in preparation for trial in this matter, the government will make a true forensic extraction
3 and/or image of devices and media containing alleged child pornography contraband at
4 issue in the above-referenced case. The government will make that forensic extraction
5 and/or image reasonably available to Defendant and provide ample opportunity for the
6 defense team to examine it at a government facility in Spokane, Washington. The parties
7 may readdress the Court if there is a need for additional or after-hours access during the
8 course of litigation in the event trial or motion hearings require additional forensic review.

9 3. IT IS FURTHER ORDERED that the defense forensic examination will be
10 conducted in an interview room monitored by closed-circuit television (“CC-TV”),
11 without audio feed. While the TV with non-audio feed will ensure the integrity of FBI/HSI
12 space and security of its occupants, the video feed is not of sufficient detail or at an angle
13 that would reveal defense strategy. The government and its agents expressly agree that
14 no attempt will be made to record any audio from the workstation and that no attempt will
15 be made to observe the defense team’s work product or computer monitor screen at any
16 time. The defense expert may review the feed to ensure that defense strategy is not being
17 compromised at any time while conducting the forensic review.

18 4. IT IS FURTHER ORDERED that the defense team¹ shall not make, nor
19 permit to be made, any copies of the alleged child pornography contraband pursuant to
20 this Protective Order and shall not remove any contraband images from the government
21 facility. The defense expert will be allowed to copy any file that is not contraband and
22 compile a report (without contraband images/videos) documenting the examination on
23 removable media at the discretion of the defense expert.

24 5. IT IS FURTHER ORDERED that the designated defense expert will leave at
25

26 ¹ For purposes of this Protective Order, the term “defense team” refers solely to
27 Defendant’s counsel of record, Roger Peven (“defense counsel”), Defendant’s designated
28 expert (“defense expert”), and a defense investigator.

1 the government facility any equipment, including hard drives, which contain child
2 pornography contraband that is identified during forensic evaluation. The parties may
3 readdress this matter with the Court upon notice that the defense intends to retain a
4 different defense expert.

5 6. IT IS FURTHER ORDERED that for the purpose of trial, the government
6 agrees to make available a digital copy of any government trial exhibit that contains
7 contraband, which will be kept in the custody and control of the case agent. Upon
8 reasonable notice by the defense, the case agent will also maintain for trial digital copies
9 of any proposed defense exhibit that contains contraband. If the defense team intends to
10 offer, publish, or otherwise utilize any government or defense exhibit contained on the
11 digital copy maintained by the case agent during trial, the case agent shall assist the
12 defense team in publishing or utilizing the exhibit that contains contraband upon
13 notification by the defense team.

14 IT IS SO ORDERED. The Clerk shall enter this Order and provide copies to
15 counsel.

16 Dated January 3, 2022.



A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE
United States District Judge